

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>RAYMOND GASTON</b>	:	
<b>POWELL, III,</b>	:	
<b>Plaintiff</b>	:	
	:	<b>No. 1:20-cv-348</b>
<b>v.</b>	:	
	:	<b>(Judge Rambo)</b>
<b>MAIL INSPECTOR CHARLES</b>	:	
<b>MCKEOWN, <i>et al.</i>,</b>	:	
<b>Defendants</b>	:	

**ORDER**

**AND NOW**, on this 6th day of August 2020, for the reasons set forth in the Memorandum accompanying this Order, **IT IS ORDERED THAT:**

1. Plaintiff's motion for a continuance (Doc. No. 20) is **DENIED**;
2. Defendants' motion to dismiss (Doc. No. 13), construed as a motion for summary judgment on the issue of administrative exhaustion, is **GRANTED IN PART** and **DENIED IN PART**, as follows:
  - a. The motion (Doc. No. 13) is **GRANTED** with respect to Plaintiff's Eighth Amendment claim for failure to state a claim upon which relief may be granted and for failure to exhaust;
  - b. The motion (Doc. No. 13) is **GRANTED** with respect to Plaintiff's First Amendment retaliation claims for failure to exhaust;
  - c. The motion (Doc. No. 13) is **GRANTED** with respect to Plaintiff's Fourteenth Amendment due process claims against Defendants Mahally and Moslak for failure to state a claim upon which relief may be granted;
  - d. The motion (Doc. No. 13) is **DENIED** with respect to Plaintiff's Fourteenth Amendment due process claims against Defendants McKeown and Gardzalla;

3. Because the Court has resolved all of Plaintiff's claims against them, Defendants Mahally and Moslak are **DISMISSED**, and the Clerk of Court is directed to terminate them as Defendants in the above-captioned case;
4. Within fourteen (14) days of the date of this Order, Defendants McKeown and Gardzalla shall file an answer to Plaintiff's complaint (Doc. No. 2); and
5. The parties are directed to complete discovery within six (6) months of the date on which Defendants McKeown and Gardzalla file their answer.

s/ Sylvia H. Rambo  
United States District Judge